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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,626	01/30/2001	William B. DeRolf	P5781	9949
24033	7590	02/26/2004	EXAMINER	
KONRAD RAYNES & VICTOR, LLP 315 S. BEVERLY DRIVE # 210 BEVERLY HILLS, CA 90212			BADERMAN, SCOTT T	
			ART UNIT	PAPER NUMBER
			2113	

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/772,626	DEROLF ET AL.	
	Examiner	Art Unit	
	Scott T Baderman	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 January 2001.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-48 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-43 is/are allowed.
- 6) Claim(s) 44-48 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 12 June 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5&6</u> .	6) <input type="checkbox"/> Other: _____ .

DETAILED ACTION

Claim Objections

1. Claim 4 is objected to because of the following informalities: In line 5, “the diagnostic test” lacks antecedent basis. Appropriate correction is required.
2. Claim 5 is objected to because of the following informalities: In line 4, “the new link” lacks antecedent basis. Suggestion: the replacement link. Appropriate correction is required.
3. Claim 10 is objected to because of the following informalities: In line 3, “a” should be “an”. Appropriate correction is required.
4. Claim 14 is objected to because of the following informalities: In lines 1-2, “the Fibre Channel protocol” lacks antecedent basis. Appropriate correction is required.
5. Claim 19 is objected to because of the following informalities: In line 5, “the diagnostic test” lacks antecedent basis. Appropriate correction is required.
6. Claim 20 is objected to because of the following informalities: In line 1, “the diagnostic tool software” lacks antecedent basis. Appropriate correction is required.

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7. Claim 20 is objected to because of the following informalities: In line 5, “the new link” lacks antecedent basis. Suggestion: the replacement link. Appropriate correction is required.

8. Claim 21 is objected to because of the following informalities: In line 2, “the diagnostic tool software” lacks antecedent basis. Appropriate correction is required.

9. Claim 22 is objected to because of the following informalities: In line 1, “the diagnostic tool software” lacks antecedent basis. Appropriate correction is required.

10. Claim 25 is objected to because of the following informalities: In line 1, “the diagnostic tool software” lacks antecedent basis. Appropriate correction is required.

11. Claim 26 is objected to because of the following informalities: In line 1, “the diagnostic tool software” lacks antecedent basis. Appropriate correction is required.

12. Claim 28 is objected to because of the following informalities: In line 2, “the diagnostic tool software” lacks antecedent basis. Appropriate correction is required.

13. Claim 29 is objected to because of the following informalities: In lines 1-2, “the Fibre Channel protocol” lacks antecedent basis. Appropriate correction is required

14. Claim 34 is objected to because of the following informalities: In line 6, “the diagnostic test” lacks antecedent basis. Appropriate correction is required.

15. Claim 35 is objected to because of the following informalities: In line 5, “the new link” lacks antecedent basis. Suggestion: the replacement link. Appropriate correction is required.

16. Claim 36 is objected to because of the following informalities: In line 1, “the link isolation test” lacks antecedent basis. Appropriate correction is required.

17. Claim 40 is objected to because of the following informalities: In line 4, “a” should be “an”. Appropriate correction is required.

18. Claim 47 is objected to because of the following informalities: In line 5, there are two periods. Appropriate correction is required.

Allowable Subject Matter

19. Claims 1-43 are allowed.

20. The following is an examiner’s statement of reasons for allowance:

With respect to claims 1, 16 and 31, the Examiner asserts that the novelty of the claim, when read as a whole, is “performing an initial test to determine if there is a failure in the path,

adding at least one of the path components to a suspect list capable of being a cause of the failure, wherein the suspect list is implemented in a computer readable data structure, performing at least one isolation test on at least one of the path components added to the suspect list, removing the tested path component from the suspect list if the isolation test confirms that the tested path component cannot be a source of the failure, and returning the suspect list to a user to provide information on the path components capable of being the cause of the failure.”

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

Double Patenting

21. Claim 44 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 15. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 112

22. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

23. Claims 45-48 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claim 45, in lines 5-6, it states: “the rule object calls *test descriptors* associated with a testing operation to perform”, and then in lines 7-9, it states: “a test descriptor object includes *test descriptors*, wherein each *test descriptor* specifies one or more program modules to perform the testing operation associated with the *test descriptor*”, and in lines 10-13 it states: “a module object including program modules providing code to perform testing operations, wherein a call to one *test descriptor* executes the program modules specified by the *test descriptor* to perform diagnostic testing operations according to the operation flow specified in the rule object.” It is indefinite as to which “*test descriptors*” are doing what. Some are called by the rule object, while others are included in the test descriptor object. It is not clear if these test descriptors are one of the same or different.

Claims 46-48 are rejected as being dependent on a rejected base claim.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

See From PTO-892.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott T Baderman whose telephone number is (703) 305-4644. The examiner can normally be reached on Monday-Friday, 6:45 AM-4:15 PM, first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (703) 305-9713. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.



Scott T Baderman
Primary Examiner
Art Unit 2113

STB